The Queer Paradox of LGBTI Human Rights

Ryan Richard Thoreson

STRESZCZENIE: "Queerowy paradoks projektu praw człowieka LGBTI"

Na przestrzeni ostatniego półtora roku kwestia praw człowieka społeczności LGBTI znalazła się w centrum uwagi ze względu na wprowadzenie drakońskiej ustawy antyhomoseksualnej w Ugandzie, jak również aresztowanie i skazanie, choć później ułaskawienie Tionga Chimbalangi oraz Stevena Monjeza w Malawii. Wydarzenia te, jak świadczą dowody, stworzyły przestrzeń dla osób LGBTI (poparcie dla społeczności LGBTI w Ugandzie, choć małe, ale zalicza się do najwyższych w Afryce), jednak stało się to kosztem odmieńczości osób LGBTI, którą zanegowano, a sięgając po retorykę zasadzającą się na rodzinie, wierze oraz obywatelstwie, aktywistycznie podkreślono wagę asymilacji osób LGBTI do społecznego ciała Afryki.

W niniejszym artykule autor bada możliwości oraz ograniczenia projektu praw człowieka jako formy queerowej pozytywności. Opierając się na wynikach etnograficznej pracy w terenie, którą na przestrzeni roku przeprowadził w Międzynarodowej Gejowsko-Lesbijskiej Komisji Praw Człowieka (IGLHRC) w Nowym Jorku oraz w Cape Town, jak i koncentrując się na aktywizmie w Ugandzie i Malawi, autor przygląda się prawom człowieka społeczności LGBTI jako projektowi, który z jednej strony ma potencjał squeerowania rozumienia człowieka, obywatela oraz prawa, z drugiej natomiast wiąże się z ryzykiem homogenizacji czy też wymazania form queerowej seksualnej podmiotowości. Zdaniem autora, aktywizm związany z wyżej zarysowanymi przypadkami z Ugandy i Malawi obrazuje to, co nazywa on queerowym paradoksem projektu praw człowieka społeczności LGBTI - niemożliwością wypracowania transhistorycznej lub transnarodowej queerowej solidarności z uwagi na to, że działania, które w jednym miejscu mogą być czytane jako queer i transgresyjne, w innym uważane będą za normatywne czy wręcz hegemoniczne. Wniosek, który autor sugeruje, jest taki, że problem, jaki queerowe aktywistki i queerowi aktywiści mają z prawami człowieka społeczności LGBTI, nie tkwi tylko w tym, że prawa człowieka są projektem na wskroś hegemonicznym i heteropatriarchalnym, ale że stanowią one również punkt graniczny, w którym to, co jest queer, mówi w poprzek granic i gdzie to, co uchodzi za "queer" w teorii queer jest kwestionowane i negocjowane. Jako taki projekt praw człowieka

jawi się więc jako przestrzeń, której odmieńcy nie powinni tylko krytykować, ale muszą się nią konstruktywnie zajmować.

Introduction:

In late 2009 and early 2010, a tremendous amount of media attention was unexpectedly trained on the human rights of LGBTI and same-sex practicing persons in sub-Saharan Africa. The tabling of the Anti-Homosexuality Bill of 2009 by Ugandan MP David Bahati catalyzed what ultimately became months of coverage of the struggles of LGBTI and same-sex practicing persons and groups on the continent. As debate over the Bill continued, journalists turned their attention to a proposal to formally criminalize same-sex activity for the first time in Rwanda, the arrest of Tionge Chimbalanga and Steven Monjeza in a township outside of Blantyre, Malawi, the raids on the Kenya Medical Research Institute (KEMRI) in Mtwapa, Kenya, and sporadic arrests and violence in Tanzania, Cameroon, and Senegal.

As a result of this efflorescence of mobilization and visibility, a number of high-level interventions were made in sub-Saharan Africa, particularly in Uganda. At the Commonwealth Heads of Government Meeting, Prime Ministers Stephen Harper of Canada and Gordon Brown of the United Kingdom publicly registered their concern over the Anti-Homosexuality Bill. In late November, Sweden's Development Assistance Minister, Gunilla Carlsson, suggested the country would cut its development aid - roughly $50 million annually - if the legislation passed. In the months that followed, UNAIDS Executive Director Michel Sidibe, UN Special Envoy for HIV/AIDS in Africa Elizabeth Mataka, US President Barack Obama, US Secretary of State Hillary Clinton, President Emeritus Festus Mogae of Botswana, and many others publicly and privately intervened to persuade President Yoweri Museveni of Uganda to stop the legislation from passing into law.

The tone of the debate in the international press, particularly the frequently imperialist and xenophobic commentary on the blogosphere, and the high-level interventions that followed amplified a particular way of looking at the challenges facing LGBTI and same-sex practicing people in Africa. Notably, they also obscured the discourses used in the day-to-day organizing around these incidents by African and transnational groups. In Uganda, Malawi, Kenya, Rwanda, and elsewhere, much of the organizing explicitly invoked the framework, rhetoric, and networks of the human rights movement, and particularly emphasized the human rights of LGBTI or same-sex practicing people.

The use of a human rights framework for negotiating political claims

has been largely written off by many queer and leftist theorists as discomfiting or inherently problematic. In many ways, the human rights project does appear to be unhelpful for - if not antithetical to - any vision of a queer future. Its focus on norms and regulatory power, its location and affirmation of power within the state apparatus, and its displacement or exclusion of other frameworks for building communities, expressing solidarity, and mobilizing politically have all been targets of incisive and persuasive critiques. At a glance, there seems to be very little that is queer about LGBTI human rights projects - and the recent episodes in sub-Saharan Africa appear to offer little to call such a conclusion into question.

Nonetheless, in each of these settings, the human rights of LGBTI and same-sex practicing persons were invoked in multiple and contradictory ways, and posed a very real challenge to religious, nationalist, and heteropatriarchal structures. For all their theoretical and practical shortcomings, LGBTI human rights projects are becoming primary vehicles through which a future for queer people is being negotiated and institutionalized. Simultaneously - and less obviously - these projects are using and appropriating human rights rhetoric for initiatives that seek to destabilize power, create space for sexual difference, and challenge normativities in novel and expansive ways. The mainstream coverage of solidarity work around LGBTI human rights projects tends to downplay or omit these interventions, focusing instead on the most sensational displays of animus against LGBTI and same-sex practicing persons in the Global South and the most righteous condemnations of those in the Global North. Such coverage rarely explores the ways that activists negotiate the political volatility of these situations and grapple with questions of visibility, assimilation, and difference in their daily work.

Visions of a queer future rarely embrace the human rights apparatus and the space it increasingly occupies in legal and social imaginaries. In this paper, I explore the potential for queer engagement with LGBTI human rights projects as a form of queer positivity, looking at the possibilities and challenges that this raises. My analysis draws on doctoral fieldwork conducted from September 2009 to September 2010 at the New York and Cape Town offices of the International Gay and Lesbian Human Rights Commission (IGLHRC). During this period, I paid particularly close attention to the way that human rights were invoked and deployed with regards to LGBTI and same-sex practicing persons, and particularly, the shape this took in responses to a variety of disparate incidents in sub-Saharan Africa. I suggest that the use of the human rights framework had complex and contradictory effects, bolstering some normativities while challenging others - and that the discomfort that activists felt in negotiating these effects

transnationally is not only understandable, but theoretically and practically productive. What is queer in a particular time and place may not be queer in others, and transnational work regularly juxtaposes queer politics with the urgency and uncertainty of other forms of politics in uncomfortable ways. In such a world, a queer engagement with transnational questions of sexual politics, ethics, and solidarity is critical, and the questions raised by human rights projects provide an important site for that engagement.

Normativity, Complexity, and Disruption in Human Rights Projects

There are a number of reasons why theorists have not rushed to embrace human rights projects as a vehicle to a queer future. Nico Beger has suggested that "Concepts of queer, thus, are at their best where they defy definition and where they concentrate on disruptions of the normal - the normal being male, heterosexual, white, bourgeois, but also normal business in the academy or taken-for-granted gay and lesbian identity politics" (Beger 2004: 42). This is often in tension with the wider human rights project, particularly insofar as "this concept of humanness is far from being natural, objective, and universal: it is a historical product that heavily relies on binary and normative structures, and thus, presents an important field where interrogation is paramount" (Beger 2004: 87). Assumptions about the stability of the subject, the ability of the state to guarantee meaningful freedom, and the implicit conception of the good life in the human rights arena do not always comfortably coexist with poststructuralist recognitions of multiplicity, fragmentation, and contradiction, both of sexuality and being itself.

The use of human rights to open space for queerness thus merits scrutiny, even in those contexts in which their long and specific history has made them into a normative good around which society and politics are organized. It also deserves scrutiny, however, in spaces where human rights are a relatively new or contested project, and introduce or reinforce assumptions about rights-bearing subjects, the claims that they can make on the state, society, and those around them, and how these claims can be adjudicated, if not resolved (Kulpa and Mizielinska 2011; Donnelly 2003: 87-88). Many of these assumptions have been rendered explicit by jurists, anthropologists, and postcolonial theorists, who have highlighted the historically specific origins of the ideology and apparatus of universal human rights and their asymmetric operation in a deeply unequal world. As Makau wa Mutua notes, the supposed universality of the human rights framework is dogged by its persistent inability "to create agreement on the scope, content, and philosophical bases of the human rights corpus" in any kind of cross-culturally agreed-upon way (wa Mutua 1995-1996: 590). When these disagreements overlap heavily with asymmetries of

power and influence in a globalized world, they not only become political tools of empire - they also create theoretical and practical dilemmas for those who would use them to promote justice. Advancing LGBTI human rights involves implicitly or explicitly advancing particular views about who counts as human, the state's authority to regulate morality, health, and reproduction in public or private, and the types of sexual subjects who merit specific kinds of rights and recognition. This is neither neutral nor without consequences; many critics have specifically highlighted the adverse impacts of transnational interventions from the Global North, as the rush to respond bolsters other normativities and prejudices, is rife with political and epistemological *meconnaissance,* and often increases the vulnerability of those who are supposed to be at risk in the Global South (Puar 2007; Haritaworn et al. 2008; Hoad 1999, 2007; Massad 2002, 2007; Long 2009).[1] While human rights reinforce normativity in a number of ways in Western Europe, they do so in slightly different ways when they are deployed in other contexts where their operative presumptions do not immediately resonate or overlap in complex ways with other inter- or intra-national politics.

Of course, these limitations are not only applicable to human rights as they pertain to sexuality. A helpful summary of pragmatic criticisms of the international human rights movement is provided by David Kennedy, who considers and consolidates an array of objections which suggest that the human rights project might be detrimental or even counterproductive (Kennedy 2002: 101-125). Of the many pragmatic concerns that might be voiced, however, three are thrown into sharp relief by recent disputes where the human rights of LGBTI and same-sex practicing people were invoked in sub-Saharan Africa. These stem from the human rights project's reliance on a particular understanding of the individual subject and the claims that subject can make vis-a-vis a larger community or society, reification of the state's authority to recognize and legitimate particular kinds of sexual subjects, and displacement or negation of those political projects and forms of sexual subjectivity that cannot be easily incorporated into existing human rights frameworks.[2]

These biases are not politically neutral, and many of them appeared to circumscribe domestic and transnational activism around sexual rights in various parts of sub-Saharan Africa in late 2009 and early 2010. The disputes that emerged over the rights and responsibilities of queer persons - and those opposed to such rights - are useful in thinking through whether and how LGBTI human rights projects might bolster or challenge hegemonic systems, discourses, and practices, both in the context of the nation-state and in a wider field. A brief look at the advocacy around the Anti-Homosexuality Bill of

2009 in Uganda and the arrest of Tionge Chimbalanga and Steven Monjeza in Malawi is useful in loosely sketching some of the ways that ideas about normativity, queerness, and the human rights of LGBTI and same-sex practicing persons were invoked and deployed by various players - and how this might provide a foundation for queerer human rights projects.

The Anti-Homosexuality Bill of 2009

In October 2009, MP David Bahati of Ndora West tabled the Anti-Homosexuality Bill of 2009 in the Ugandan Parliament. According to the memorandum accompanying the Bill, its object was:

"to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any non-governmental organization inside or outside the country. (AHB 2009)"

The memorandum went on to identify a number of motivations for the legislation explicitly aimed at propping up an avowedly normative order. It "aims at strengthening the nation's capacity to deal with emerging internal and external threats to the traditional heterosexual family." It "recognizes the fact that same sex attraction is not an innate and immutable characteristic." It seeks "to protect the cherished culture of the people of Uganda, legal, religious, and traditional family values of the people of Uganda against the attempts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda." Finally, it attests that "[t]here is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise" (AHB 2009).

These were the justifications laid out by the author of the Bill, and were reiterated by its proponents over the next year. Notably, same-sex activity was and is already criminal in Uganda; both male-male and female-female sexuality is prohibited under the Penal Code Act of 1950, using the standard language incorporated into the penal codes of the vast majority of countries formerly colonized by Britain. Section 145 states that "carnal knowledge of any person against the order of nature" is punishable with life imprisonment. Section 148 states that "gross indecency," whether actual or attempted, in public or private, is punishable with seven

years in prison (Ottosson 2010).

As the memorandum suggests, the Anti-Homosexuality Bill attempted to go further, regulating a far wider scope of behavior, identification, and rhetoric framed as threats to the sanctity and stability of tradition, culture, heterosexuality, the family, and the state. In keeping with this line of thought, the proposed Bill would have prescribed life in prison for anyone who "touches another person with the intention of committing the act of homosexuality," and the death penalty for aggravated homosexuality, a category which includes sex with people under the age of 18, when one is HIV+, when one is the parent or guardian of their sexual partner, when one is in a position of authority over their sexual partner, when one's partner is disabled, when one uses "any drug, matter or thing" to coerce someone into sex, or when one is a "serial offender".[3]

Furthermore, and more worryingly for civil society in Uganda, the Bill would have permitted the imprisonment of anyone who "aids, abets, counsels, or procures another to engage in acts of homosexuality," "promotes homosexuality," or fails to report violations of the law within 24 hours. It also purported to void Uganda's adherence to any treaty or agreement that contradicts the letter or spirit of the law - which, as per clarifications, would include both of the major international human rights covenants - and rejected any recognition of the concepts of sexual orientation, gender identity, sexual rights, and sexual minorities within Uganda (AHB 2009).

The tabling of the Bill was immediately met with statements from a number of transnational, regional, and Ugandan NGOs protesting the extremity of the legislation (IGLHRC and SMUG 2009; Amnesty International et al. 2009). Within Uganda, a locus of resistance was the law school at Makerere University, where Sylvia Tamale became an outspoken critic of the Bill on both legal and ethical grounds. A number of groups - some LGBTI and *kuchu* identified, some focused on other issues - joined together to form the Civil Society Coalition on Human Rights and Constitutional Law, a group that used the press and their various contacts in Uganda and transnationally to highlight the precedent the Bill's passage would set and the chilling effect that would have on the country's democracy and civil society. Following a request from Sexual Minorities Uganda (SMUG), IGLHRC and other NGOs sought to set up solidarity protests around the globe, drawing attention to the issue and calling on governments to clarify that this would contravene the country's human rights commitments.

In many ways, the rhetorical fire exchanged between different actors as the Bill stalled in Parliament in the months that followed centered around sexual normativity, whether LGBTI and same-sex

practicing persons had any place in the polity and society, and how queerness should be properly policed. Key supporters of the legislation, like Pastor Martin Ssempa or Minister of Ethics and Integrity James Nsaba Buturo, stressed that homosexuality is unnatural, immoral, and un-African. Even President Yoweri Museveni, who sought to publicly avoid much of the controversy, noted that "We used to have very few homosexuals traditionally. They were not persecuted but were not encouraged either because it was clear that is not how God arranged things to be." Stephen Langa, an evangelical from Uganda who hosted three evangelicals from the US who were widely suspected of catalyzing the push to expand the criminalization of homosexuality, warned of the encroachment of "the gay agenda - that whole hidden and dark agenda" (Gettleman 2010). In the press and from the pulpit, the charged rhetoric used to support the Bill drew heavily on ideas that homosexuality was an import from the West - one which sought to recolonize and corrupt the Ugandan nation-state by posing a deadly threat to its culture, traditions, and values.

The Civil Society Coalition and the groups within it, including a number of long-standing LGBTI-identified groups, responded by drawing on a different set of normativities that are widely associated with constitutional democracy. In their press releases, interviews, and advocacy, they variously dubbed the Bill the "Anti Civil Society Bill," "Anti Public Health Bill," Anti Constitution Bill," and "Anti Human Rights Bill." They mainstreamed the issue as much as possible, highlighting in one release how the Bill would not only affect people accused of being LGBTI, but parents, neighbors, teachers, landlords or landladies, politicians, doctors, civil society leaders, human rights activists, religious leaders, MPs, journalists, and internet cafe operators. Throughout all of this, the Civil Society Coalition actively cultivated pressure from the Global North by sending representatives abroad to speak to donors and supportive human rights groups, coordinating their efforts with regional and transnational NGOs, and vocally encouraging allies to speak up against the Bill and the continued exporting of religious homophobia from the US to Uganda.

A tremendous amount of time, energy, and money was devoted to the debate over the Anti-Homosexuality Bill, which was hotly contested for months. In the process, arguments that the Bill was necessary to safeguard the traditional family, the heterosexuality of children, the culture and values of Uganda, and the sovereignty and independence of the nation-state were pitted against the rhetoric of democracy, development, freedom, equality, and human rights. The debates continued in multiple forums, where the rhetoric of human rights was used in complex and contradictory ways. At the same time that it was counterpoised against normative claims

regarding tradition, culture, and the heterosexual family, it was used to support fairly conventional and hegemonic understandings of what it means to be a recognizable sexual and political subject in a liberal polity. Ultimately, amid widespread international criticism and hints - never realized - that the death penalty and other particularly controversial portions of the Bill might be stripped, the legislation languished in committee for nearly two years.

The Arrest of Tionge Chimbalanga and Steven Monjeza

The second episode in sub-Saharan Africa that received a great deal of attention internationally was the arrest of Tionge Chimbalanga and Steven Monjeza, a couple arrested for a traditional "same-sex" commitment ceremony on December 26, 2009. Chimbalanga and Monjeza spent five months in jail without bail or recourse to higher courts under what police deemed "protective custody." Like Uganda, Malawi's penal code is heavily influenced by the laws imposed by Britain during the colonial era. Chimbalanga and Monjeza were charged under Section 153, which criminalizes "carnal knowledge of any person against the order of nature," and Section 156 which "gross indecency" between males, whether public or private (Ottosson 2010).

The arrests garnered an inordinate amount of attention, and notably, obscured other repressive actions by the state that were reportedly occurring during the same period in Malawi. Just weeks before Chimbalanga and Monjeza were arrested, police raided the offices of the Centre for the Development of People, an NGO doing outreach to MSM. Soon after the arrests, there were further reports that staffers from CEDEP were being arrested or driven into hiding under threat of arrest, and a conference on HIV/AIDS prevention was disrupted by police who appeared without a warrant to harass attendees (IGLHRC 2010). In a case that did garner some attention, a young man was reportedly arrested and sentenced to community service for putting up posters that read "Gay Rights are Human Rights." Elsewhere, an older man was reportedly arrested on charges of sodomy and an older woman was driven from her town for allegedly attempting to have sex with a younger woman in the area. These incidents went largely uninvestigated and unpublicized by transnational NGOs that were primarily working with CEDEP on the upcoming trial of Chimbalanga and Monjeza.

When the ruling in the trial was finally handed down in May 2010, Monjeza and Chimbalanga were sentenced to fourteen years in prison with hard labor. Following the personal intervention of UN Secretary General Ban Ki-Moon, who visited Malawi to appeal for their release, the couple was pardoned by President wa Mutharika. Although the pardon was granted, wa Mutharika nonetheless opined that their behavior was "foolish" and "satanic," and frankly

confessed that the pardon was to pacify donors and the international community (Khunga 2010). He also ordered representatives of the state not to talk about homosexuality to reporters, despite - as many observers noted - bringing the trial up repeatedly in his own speaking engagements.

In the aftermath of the pardon, a number of international groups expressed approval about the pardon but noted that it did little to ameliorate the hostile climate for LGBTI or same-sex practicing persons in Malawi. In a statement following the pardon, CEDEP's Executive Director, Gift Trapence, stated "We hope that the President now pardons all Malawians imprisoned on the basis of sexual orientation or gender identity, that the judiciary overturns all such convictions, and that the government ensures the constitutional rights to equality and non-discrimination for all." IGLHRC's Executive Director, Cary Alan Johnson, voiced similar concerns in the same release: "This pardon should be seen as a significant challenge to laws and proceedings that are inherently unfair. However, it should not require a presidential intervention for lesbian, gay, bisexual and transgender Malawians to obtain justice" (IGLHRC and CEDEP 2010).

Although the ruling was hailed as a victory, the pardon meant that Chimbalanga and Monjeza's conviction still stood as precedent, and that the episode reinforced and even expanded the law to include affirmations of same-sex commitment where there was no physical evidence of same-sex activity. Although lawyers within Malawi were ready to use the case as a test case to challenge the constitutionality of the law, activists were reluctant to draw more publicity and prolong what had been a taxing ordeal, and opted not to pursue litigation. As a result, they effectively showed that the normative power of human rights could be used to bring international opinion to bear on Malawi, but failed to challenge - and possibly reinforced - the precariousness of LGBTI and same-sex practicing people's rights under the domestic laws of Malawi. Indeed, less than a year later, Malawi expanded its criminal law to criminalize same-sex activity between women as well as men.

LGBTI Human Rights Projects and the Challenge of Normativity

Whether in the Global North or Global South, coverage of the responses to both of these incidents tended to highlight the attempts of political actors in the Global North to impose their understanding of obligations inherent in human rights on political actors in the Global South, often with the thinly-veiled implication that donor funding was at stake if these understandings were not accepted. Without overlooking that this is what many governments did or tried to do, it is also important to recognize that the deployment of human rights discourse on behalf of LGBTI and same-sex practicing persons had

extraordinarily complex effects on the polity and society. In Uganda, activists successfully staved off a law that would have had chilling effects on LGBTI people and any overt expressions of queerness, but did so by highlighting and reifying other forms of sexual and political normativity. In Malawi, activists used human rights discourses alongside other discourses of public health and human compassion to protest an arrest, but ultimately abandoned the issue when it might have been possible to structurally challenge the laws that prevented these rights from being recognized in the first place.

What is and is not queer about the adoption of human rights frameworks in these scenarios? To the extent that queerness is expansively understood as a political move against hegemonic normativity rather than a narrower political move against heteronormativity, the invocation of human rights in these contexts seems to be antithetical to queer praxis. The incorporation of LGBTI persons into a framework of rights requires that sexual subjectivity be defined and packaged in a way that can then be regulated by the state, whether this regulation is in the form of prohibition or of the selective tolerance or affirmation of queer subjectivities (Puar 2007). Rather than challenging or subverting normativities, the incorporation of queer subjects into the framework of LGBTI human rights seems to create and inscribe a set of sexual normativities of its own - and bolster many which govern citizenship, the sovereignty of the nation-state, and the legitimacy of the UN and other highly unequal structures of transnational law and diplomacy.

These tensions have been pointed out by Kennedy and other critics of human rights, but take on a particular resonance when applied to the LGBTI human rights project. A first point of critical engagement is the tension between the obligations of the community to an individual and the obligations of the individual to a community. The human rights framework and its interventions tend to privilege a singular rights-bearing subject above the preferences or desires of a wider community (Falk 2000: 127). In keeping with this implicit focus, the emphasis on the civil and political rights of the individual has been far stronger than the development of economic, social, and cultural rights, not least of all in transnational LGBTI human rights projects (Falk 2000: 47-48). The way that human rights are conceived and implemented by most governments - and, indeed, promoted by most LGBTI activists - tends to downplay or ignore provisions in regional and international law that allow for exceptions to some rights on the basis of, for example, "national security, public order (*ordre public*), public health or morals or the rights and freedoms of others" (ICCPR 1966). Rather than engaging with accusations that the human rights of LGBTI and same-sex practicing persons are a real or potential affront to these wider communal restrictions, defenders of LGBTI human rights tend to

ignore or deny them.

While this is understandable, it also creates awkward tensions insofar as the individual rights of queer people are perceived to or actually conflict with the norms of a wider community. It is notable that, in Africa, the African Charter on Human and People's Rights specifically recognizes the duality of rights and responsibilities, in a formulation that is not as explicit in other regions or in the covenants of international law (ACHPR 1981). In many ways, such a formulation means that the straightforward assertion of rights in the Global North fails to hold in other parts of the globe. Indeed, in political and popular debates, this was a constant tension throughout the efforts in Uganda and Malawi. In Uganda in particular, where Article 37 of the Constitution protects the right to culture, tradition, and religion, the rights of LGBTI and same-sex practicing persons were frequently challenged by recourse to the rights of a wider community. Opponents cited the freedom of speech of those calling for violence, the freedom of religion of those seeking to ban homosexuality altogether, or the rights of those who were said to be duped or seduced into homosexuality. In Malawi, this rhetoric took a more balanced tone, but was similarly prevalent. In a comment republished by the *Nyasa Times,* Deputy Minister of Finance Frazer Nihorya clarified that "This is a tricky matter because issues of rights have corresponding responsibilities . . . It is the popular opinion of Malawians which will influence government's position on the matter" (Khanje 2010).

The idea that rights are predicated upon and intertwined with responsibilities to others is known and acknowledged internally within transnational LGBTI NGOs, but activists find it difficult to responsibly articulate the nuances of this position in the middle of a crisis where these are likely to be glossed over or misappropriated, with potentially disastrous consequences for their colleagues. This is particularly true in recent years, as the stakes have risen with the successful passage of a resolution recognizing the importance of "the traditional values of humankind" at the UN Human Rights Council (Sheill 2009). In these highly polarized settings, local and transnational NGOs have been reluctant to engage in disputes about "balancing" rights. Instead, they highlight that these rights can be simultaneously enjoyed, usually in such a way that the rights of the individual implicitly take precedence over the illiberal preferences or norms of the wider community.

Where LGBTI human rights interventions *do* enter this debate in a queer way is twofold. Firstly, LGBTI human rights activists and professionals are actively engaged in redefining what it means to be a human, a citizen, and a part of the wider social fabric - and these redefinitions fundamentally reshape how rights and

responsibilities are defined. As Richard Rorty has observed, one major challenge with the human rights project is that, to obtain its protections, a subject must be considered "human" - and, in cases of virulent homophobia, this humanity is precisely what is denied to queer subjects, who are defined instead as animals, monsters, or vectors of disease and pollution (Rorty 1993). This was particularly evident in the case of Chimbalanga and Monjeza, where the lives of the two detainees - not a shadowy threat of sexual pollution - was the focus of the coverage and advocacy. Reporters visited the couple and their family members, wrote extensively about their childhoods, and speculated about Chimbalanga's gender - whether she menstruated, what she wore in court, whether Monjeza knew about her gender identity, etc. - bringing these questions, however sensationally, to the attention of Malawians across the country. The advocacy strategy was thus grounded in, but exceeded, a human rights framework, speaking as much in terms of morality and suffering as in the black-letter laws in question. Of course, Trapense stressed that "what these two people have done is an expression of their legal rights... Here are two individuals who are expressing their sexual orientation as human beings." Nonetheless, he also foregrounded the human cost of the indefinite detention, saying that the trial "will only perpetuate misery for the couple," that prison life is overcrowded and the two "go hungry," and that it is "sad" to see them "suffering just for choosing their own way of life" (CEDEP 2010).

Secondly, and often through these overlapping discourses, LGBTI human rights projects have provided new platforms for forging alliances and working across difference. Whether this is by building cross-sectoral alliances like the Civil Society Coalition in Uganda, fighting for prisoners, sex workers, men who have sex with men, and other marginalized groups as CEDEP does in Malawi, or grappling daily with the politics and complexities of transnational solidarity work as activists do at IGLHRC, these human rights projects, like the broader project of sexual rights, both galvanize communities locally and create conceptual and structural networks of people across a variety of differences. The human rights framework has created new forms of community that are not coterminous with or reducible to the formal organizations that lobby for the recognition of new norms, standards, and rules, and which often develop syncretic understandings of sexuality - like *kuchu,* baller, or trans lesbian identities in Uganda - which supplement and are supplemented by LGBTI activism, but remain outside its epistemological control.

This is not to say that they do not also bolster hegemonic forms of communality. A second critique of human rights with particular resonance for LGBTI human rights projects is the charge that such projects are statist, and predicated primarily on assimilation into and recognition by the state apparatus. Despite the putative internationalism that underlies the human rights project,

sovereignty still ultimately rests with the nation-state, which negotiates, signs, ratifies, and registers reservations to international law before adopting, observing, or flatly flaunting the obligations it imposes. The presumption and potency of sovereignty have been laid bare in the most egregious breaches of international law - for example, the use of torture, patterns of genocide, or the proliferation of biological, chemical, and nuclear weapons - where even *jus cogens* norms are ignored.

In terms of the transformative potential of human rights projects for LGBTI and same-sex practicing persons, this is seriously limiting. The violated subject may find voice for their suffering through the international arena and may productively bring pressure on the state apparatus to rectify its wrongs, but the process is ultimately focused on recognition and legitimation by a state apparatus that is often quite hostile to queerness. In Uganda, the Supreme Court's ruling in *Ooyo and Mukasa v. Attorney General of Uganda* established that LGBTI and *kuchu* persons are entitled to enjoy the rights in the Constitution regardless of their sexual orientation or gender identity, but same-sex activity itself remained illegal. In Malawi, too, the letter of the law was of little utility; despite both Sections 153 and 156 requiring that same-sex sexual activity take place between two persons, Chimbalanga and Monjeza were arrested after their traditional engagement ceremony was covered in the press as "a gay wedding."

In other instances, the state delivers on its promises to a wider transnational community but uses those promises to subtly condition the freedoms of and constraints upon LGBTI subjects. As Jasbir Puar and others have pointed out, the state's granting of freedom to "good" queers is counterpoised with its withholding of freedom to other subjects, whether these are sexualized, racialized, classed, or gendered (Puar 2007; Butler 2009). Gains made within a statist framework may simply be coopted or twisted to serve other, less obvious ends, many of which are not immediately apparent to LGBTI activists themselves.

Here, too, however, one can identify ways in which LGBTI human rights might similarly subvert or loosen the control of the state over sexual subjectivity. LGBTI human rights advocacy has challenged hegemonic understandings of the responsibilities of the nation-state, particularly in one-party systems, by bringing in diverse forms of non-state power in the form of the UN, regional bodies, NGOs, civil society within the country, diasporic populations, intellectuals and prominent thinkers, faith leaders from around the globe, and multinational corporations. There is a critical way in which the pursuit of LGBTI rights transnationally, and in solidarity, subverts the hegemony of the state at the same time

that it nominally bolsters its primacy - one which is perhaps particularly queer as the movement continues to develop and form, and as this normative power proves more effective than black-letter laws in protecting sexual subjects. This is perhaps most uncomfortable in cases where pressure from the Global North seeks to constrain governments in the Global South, but can also be seen within international and regional systems as the Human Rights Council, European Court of Human Rights, or Inter-American Court of Human Rights successfully pressure powerful states to adjust their legal and normative frameworks in line with stated commitments. At times, this change is more or less cosmetic; at other times, it is more meaningful.

The complexity of statism in human rights is that movements do not operate in a legal or normative vacuum; virtually all states have laws on obscenity, immorality, loitering, procurement, dress, hooliganism, registration, or zoning which are used to regulate and police sexuality. As *Ooyo and Mukasa* and *Kasha Jacqueline, Pepe Onziema and David Kato v. Giles Muhame and the Rolling Stone Publications Ltd* . both suggest in Uganda, the use of the judiciary as a movement tool often functions not so much to recognize the state's power to regulate sex, but to contest and reformulate the form and extent of that power. While this process can often foster new forms of intimacy and mutuality between LGBTI groups and agents of the state, it can also loosen restrictions that silence queer media, literature, art, and community, enabling a wider range of queer expressions and potentialities in future.

A third challenge to the human rights project of interest to queer theorists is the idea that the human rights project drowns out or is potentially antithetical to other forms of organizing and mobilizing. As Carl Stychin notes, this stems from a widespread concern that "the achievement of rights claims by the disempowered has often resulted in the 'normalization' of more radical claims aimed at social transformation" (Stychin 1998: 17). By privileging a particular form and framework of negotiating social dilemmas, the human rights project leaves little room for other - potentially more expansive - articulations of social justice, well-being, and harmony within a community.

As activists working with the human rights of LGBTI and same-sex practicing people are well aware, however, the apparent formality of the framework and rhetoric of human rights covers a great deal of ambiguity, creativity, and innovation in what exactly might fit within its scope. As networks develop - perhaps particularly where restrictions on funding, a hostile polity, and networks of activists overlap - the human rights framework itself is expanding and blurring at the edges. Outside of the Global North, the tactical value of

engaging with multiple discursive and structural frameworks has not only shaped the opportunities available to LGBTI groups, but has given the movement a kind of flexibility that is belied by a strictly Northern understanding of rights and what they do.

For many groups, including SMUG and CEDEP, any attention paid to human rights is also paid with a deeper understanding of human needs. Groups across Africa have been more directly engaged with service provision, public health, development, refugee assistance, research, and issues of safety and security than advocacy groups in the Global North, which rarely engage in all of these approaches simultaneously. With their roots in these different discourses, these groups are actively engaged in projects that seek to expand or spill over the boundaries of the human rights project. This is not unique to LGBTI human rights projects; the women's movement has been extremely successful in the construction of violence against women as a human rights issue and even a form of torture under international law. Similarly, groups engaged in LGBTI human rights projects have actively sought to construct the adverse treatment of LGBTI and same-sex practicing people - for example, blackmail and extortion, discrimination on the job market, or controls on public space that limit private sexual liaisons - as human rights issues (ADEIM-Simbiosis et al. 2005; Thoreson and Cook 2011).

A related charge, which emerges primarily in anthropological and queer critiques of transnational sexual politics, is that the human rights project is antithetical to diverse and mutating forms of queerness. From a queer theory perspective, it is also worth reflecting on what the human rights framework asks of queer subjects, and the ways that it ignores or curtails forms of queerness that are not reducible to the rubric of LGBTI identity, or, indeed, to sexual orientation and gender identity. With the strong prerogative to define and protect queer populations, the human rights project erases ambiguity by creating and imposing particular epistemologies regarding sex, sexuality, and sexual subjectivity. In a Foucauldian move, critics allege that this has been particularly detrimental in those places where defining and reifying a population as "gay" or "lesbian" invites condemnation of them - essentially, creating subjects who are then oppressed and can then be saved (Massad 2002; 2007). Although human rights professionals have shifted instead to the language of "MSM," "WSW," or "sexual orientation and gender identity" - precisely because not all sexes and sexualities are reducible to the "LGBTI" category - these have also been critiqued for either erasing LGBTI people or presuming that sexual orientation and gender identity are equally meaningful as registers of subjectivity worldwide (Young and Meyer 2005, Waites 2009).

More than simply erasing sexual subjectivities, however, rights-based interventions have also erased forms of *queerness,* and sought to homogenize sexual difference in a variety of ways. In hostile settings, whether someone is "actually" gay, lesbian, or transgender is often used as a shorthand marker for their dedication to the movement and ability to understand the needs and demands of LGBTI people - and those who are not "actually" LGBTI are viewed with suspicion. This has often made it difficult for particular people to be active in LGBTI organizing without coming under suspicion, including, for example, lesbian women with children from heterosexual marriages, or bisexual men who are known to date women.

The reification of LGBTI identities and frameworks has been a lightning rod for queer theorists concerned about the spread of hegemonic models from the Global North to the Global South. Indeed, it is notable that this is also a source of concern for staff members of many of the major transnational LGBTI NGOs, whose political ideologies are considerably queerer and more sex-positive than a tepid, straightforward reading of their advocacy might suggest. In the US, queer theory has relied on a fairly stable idea of what is considered normative and what is considered queer or transgressive, one which is perhaps best embodied by Gayle Rubin's "charmed circle" whereby monogamy, heterosexuality, vanilla sex, and other traits are considered good, normal, natural, and blessed (Rubin 1984: 267). In contexts where inclusion in the charmed circle is the goal of LGBTI political praxis, and the asymmetries of geopolitics are appropriated to achieve this, it is difficult to see such interventions as queer.

At the same time, the hostile political environment faced by groups working on behalf of LGBTI and same-sex practicing persons often leaves little room for any other form of visible mobilization. In countless instances of state-sponsored homophobia where activists visibly mobilized in protest, groups in Africa understandably countered rumors, stereotypes, and accusations by publicly asserting the normativity of LGBTI communities. Thus, in Uganda, activists have adamantly asserted that "We, like all other Ugandans, are responsible and law abiding citizens... We know that sexual orientation is not changeable. We are homosexuals and cannot change... WE CANNOT, DO NOT, HAVE NEVER, AND WILL NEVER 'recruit,'" signing their statement "For and on behalf of all the Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer People of Uganda. For God and Our Country!" (SMUG 2009). In countless ways, such a statement is virtually unrecognizable as "queer" in the Global North. As Joanna Mizielinska has reminded scholars from the context of Central and Eastern Europe, "queering politics can mean different things locally and that what can be

described as an identity approach from the US perspective can have its queer face on the local level" (Mizielinska 2011: 86). In these and other situations, although the appeal is for the state to recognize what might be deemed forms of queerness, the appeal itself homogenizes, sanitizes, and assimilates it to the point that what is truly queer about it from a Northern perspective is negated.

If a queer positivity is, at its core, anti-normative, the applicability of the human rights project to LGBTI populations and their demands results in a paradox, whereby actions have multiple effects on multiple normativities. In the broadest sense of the word, is it a queer intervention to work hard to get the Holy See to speak out against the criminalization of same-sex sexuality at the UN? Is it a queer intervention to use the inequalities of global politics and the hope of EU accession to get a country like Turkey to recognize the rights of trans sex workers? Is it a queer intervention to assert that sexual orientation is biological, and therefore LGBTI people should not be exiled from their families or communities, or would it be queerer to insist that sexuality is socially constructed, that this must be balanced against a right to culture and communal self-determination, and that the family is a bankrupt institution anyway, and let the cards fall where they may? To the extent that a major goal of the human rights project is to establish norms and rules, its effect is paradoxical - what is queer in one place and time is not queer in another, and any intervention inevitably serves to bolster some norms and rules while challenging and subverting others. It is this queer paradox that not only merits acknowledgment from critics of LGBTI human rights projects, but deeper exploration as a means of making that project into a queerer endeavor.

From Queer Paradox to Queer Positivity

The use of a human rights framework to work for LGBTI and same-sex practicing people does, in many ways, replicate a kind of reliance on individualism, the state, and particular ways of thinking about politics that are hegemonic in the Global North. When deployed in very different political contexts, these maneuvers have a different resonance and impact.

Thus far in this analysis, I have understood "queer" to mean "anti-normative." In this framework, whether LGBTI human rights projects can be "queer" fundamentally depends on what norms they are positioned against. In this way, the pursuit of human rights for LGBTI and same-sex practicing people - however hegemonic in the Global North - *is* often queer in sub-Saharan Africa. Although it can replicate and reify hegemonic understandings of what it means to be a sexual subject - particularly a gay, lesbian, bisexual, transgender, or intersex subject - it does so in a field where these understandings are, in many ways, deeply subversive to

heteropatriarchal hegemony. Conversely, the ways that activists have engaged with human rights suggest that human rights can also be productively used to contest and subvert sexual hegemonies in their myriad forms, and much more expansively than is apparent to observers in the Global North. LGBTI human rights projects in any context are neither inherently queer nor inherently hegemonic - their effects are necessarily multiple and kaleidoscopic, and subvert some normative understandings at the same time that they affirm others (Beger 2004: 53). This is often overlooked in queer theory in the US, which tends to presume that some practices and frameworks are or are not "queer" in a semi-reified, consistent way.

Instead, I would argue that the contingency and dynamism of what is and is not queer raises a point that transcends debates over the politics of any given deployment of human rights on behalf of LGBTI and same-sex practicing people. The queer potential of LGBTI human rights projects is, as I see it, inherent precisely in the difficulty, if not impossibility, of any kind of transhistorical or transnational "queer" solidarity when what is queer and transgressive in one place is normative and even hegemonic in another. By dismissing the human rights framework entirely, theorists lose an invaluable opportunity to understand how some of the most fundamental rules and norms that generate those different normativities and transgressions are being generated, why, and by whom (Beger 2004: 45). This is perhaps especially true in those contexts where the concept of human rights itself remains subject to considerable skepticism and interpretation, and where that framework coexists with other frames for organizing claims about justice and responsibility. To the extent that the human rights framework influences and is influenced by understandings of who counts as human, what claims they can and cannot legitimately make on others, and who is responsible for ensuring these claims are recognized and respected, disputes which erupt around that framework speak to the fundamental situation of sexuality within a social fabric. The human rights framework is not only a critical site where norms are created, reified, and toppled, but also provides a language and episodes to think through these norms and their manifestations cross-culturally.

How might this paradox serve to transform human rights into a vehicle for queer positivity? One half of such a project is an embrace of comparative work that destabilizes the dominant presumptions of both queer theory and human rights praxis. To illustrate where such a project might be a form of queer positivity, it is helpful to slightly shift our understanding of queer. In the transnational arena in particular, perhaps, queer does not and cannot simply mean anti-normative - the norms around transnational interventions are very much contingent and

embedded in particular times, places, and frameworks. Instead, one might productively think of queerness as *destabilizing* norms - as the queer project of rendering the strange familiar and the familiar strange.

The anthropology of sexuality has long taken up this mandate, from Margaret Mead's *Coming of Age in Samoa* and Bronislaw Malinowski's *The Sexual Life of Savages* to recent scholarship querying the applicability of Northern configurations of sex, gender, sexual orientation, gender identity and expression, and sexuality (Mead 1928; Malinowski 2005; Herdt 1994; Lewin and Leap 2002; Robertson 2005). This has widened and deepened understandings of what it means to be a sexual subject, but it has not often grappled with the complexity of transnational solidarity in a world where audiences cannot be segmented and it is as easy for a politician in Uganda to find Michael Swift's "Gay Revolutionary" or screen graphic and kinky pornography as it is for evangelicals in the US to inspire the Anti-Homosexuality Bill in Uganda or develop websites to target LGBTI and reproductive rights activists in Kenya. In such a world, a comparative queer project is more necessary than ever, and cannot afford to sidestep the difficult questions of solidarity, responsibility, and ethics that such a project inevitably raises.

I would argue that this cannot be done effectively without greater attention to transnational politics and human rights projects, as such attention simultaneously destabilizes our understandings of what is and is not normative, both in queer theory and in human rights. LGBTI human rights projects constitute vast apparatuses which are redefining norms and rules around sexuality in unpredictable ways, both in the Global North and South. They have provided languages, spaces, and mechanisms for groups around the globe to communicate with, challenge, and make claims on each other - an effect of their development that is often overlooked.

This makes them particularly challenging but important places to understand the dynamic norms and rules that regulate sexual subjectivities. The fluctuating boundaries of the law - and the appeals which are made against it - illuminate norms and transgressions in flux. Comparative study of the law and legal discourse not only reveals the deeper social values and norm structures that govern day-to-day life, but also show where the law is used in and for sociopolitical contests over power, recognition, and resources (Geertz 1983; Comaroff and Comaroff 2006). It is precisely the way that law fails to paper over differences in the ways in which sexuality is regulated and policed that are interesting here - and, concomitantly, which illuminate what sexual arrangements are and are not queer in different places and times.

The power of these frameworks for rendering the strange familiar and the familiar strange can be both immensely challenging and tremendously productive. Following the release of *Gender Trouble,* Martha Nussbaum raised concern over "a new, disquieting trend" in feminist theory. As Nussbaum notes, "It is not only that feminist theory pays relatively little attention to the struggles of women outside the United States... Something more insidious than provincialism has come to prominence in the American academy. It is the virtually complete turning from the material side of life, toward a type of verbal and symbolic politics that makes only the flimsiest of connections with the real situation of real women" (Nussbaum 1999: 1-2). In her later work, Butler engages with this critique as an ongoing revisitation and elaboration of her position on universalism. In the preface to the 10th Anniversary Edition of *Gender Trouble,* she remarks that:

I have been compelled to revise some of my positions in *Gender Trouble* by virtue of my own political engagements. In the book, I tend to conceive of the claim of 'universality' in exclusive negative and exclusionary terms. However, I came to see the term has important strategic use precisely as a non-substantial and open-ended category as I worked with an extraordinary group of activists first as a board member and then as board chair of the International Gay and Lesbian Human Rights Commission (1994-1997), an organization that represents sexual minorities on a broad range of human rights issues. There I came to understand how the assertion of universality can be proleptic and performative, conjuring a reality that does not yet exist, and holding out the possibility for a convergence of cultural horizons that have not yet met. Thus, I arrived at a second view of universality in which it is defined as a future-oriented labor of cultural translation. (Butler 2007: xviii)

In this spirit, the comparative and destabilizing potential of a queer engagement with LGBTI human rights raises questions that are not necessarily asked by queer theorists and anthropologists of sexuality, and reaches audiences that they might not necessarily reach. By engaging with fundamental questions of rules and norms - who counts as human, for instance, or what sexual subjects can and cannot demand of the state and society - this project raises essential and fundamental questions that queer theory cannot afford to ignore.

Beyond this destabilizing role, how might queer theorists and human rights practitioners practically position themselves around issues of transnational solidarity and political interventions? The normative and hegemonic effects of uncritically deploying human rights frameworks are very real concerns, and yet, the costs of

abandoning these frameworks as a resource, particularly when opponents are increasingly attempting to co-opt them to silence and repress LGBTI and queer populations, is at least as high. The ideological commitments of queer theory in the Global North can run counter to the interventions that are actually and practically helpful in the face of repression in the Global South if they are not contextualized and recognized to be historically contingent.

From queer theorists, the responses to the so-called "wave of homophobia" in sub-Saharan Africa illustrate the difficulty of articulating any progressive, sex positive, pro-queer agenda in the face of virulent homophobia and its unpredictable representations by governments, the media, and other organizations, whether pro-queer or anti-queer. LGBTI organizations in the Global North and South have struggled to articulate a broadly queer agenda, and found themselves relying to different extents on normative understandings of gender and sexuality to prevent damaging and anti-queer precedents from being set in the region. I would argue that while human rights professionals merit close consideration under the gaze of queer theory, there is a surprising dearth of scholarship on the crises and episodes whereby ideas about norms, rights, and transgression are renegotiated by a diverse set of actors - and little understanding of what the queer possibilities for political intervention in such episodes might be.

For human rights professionals committed to queer positivity, LGBTI human rights frameworks may require a more grounded, less abstract engagement with the laws, policies, and practices of particular countries - and, in particular, the need to rethink why and how to engage with norms, standards, and rules that are not set forward in black-letter law, or, perhaps, by the state at all. Within pressure from donors and supporters to focus on the state - often, with good reason - it is often a matter of finding the small but opportune spaces to recognize and illustrate as much as possible that the power to shift laws and norms that govern sexuality is not always located within the state apparatus nor within LGBTI movements - and indeed, that these may have a relatively small impact on how laws and norms develop.

In this sense, like queer theory has done so productively within its domestic settings, a critical way to engage LGBTI human rights projects as a form of queer positivity is to productively consider such projects in a wider social field - that is, not taking the human rights framework and its epistemological limitations as a point of departure, but by seeing how it functions in narrowing and expanding options in practice. The ways that the human rights framework limits articulations of genders and sexualities is only a portion of what LGBTI human rights projects achieve - and indeed, may obscure their wider, less perceptible effects. That project is also

a space where concepts of normativity and political possibility are challenged and expanded for the many different participants.

Ultimately, this requires a kind of engagement that is already taking place within the field of LGBTI human rights projects, but is self-consciously backgrounded by activists, obscured by a sensationalist media, and ignored by governments and those invested in the holism and sanctity of human rights - the idea that the discourse and practice of LGBTI human rights projects are inevitably and unavoidably specific to a particular time and place, and bear little resemblance to the putative universalism with which human rights are so often associated. The queer paradox of human rights becomes a form of queer positivity when the localized, grounded engagement of sexual subjects with systems of norms and rules becomes a comparative, cross-cultural, and ultimately destabilizing exercise.

Conclusion:

The queer paradox of LGBTI human rights reminds us that any kind of transhistorical or transnational queer solidarity is impossible when what is queer and transgressive in one place is normative and even hegemonic in another. Importantly, it does so not simply by illustrating sexual difference, but doing so in a way that sharply illustrates the political and ethical interconnections between different queer communities around the world, illustrates how we are necessarily implicated in defining queerness elsewhere, and challenges us to work through these differences rather than writing them off.

The difficulty that queer activists face in working on the human rights of LGBTI and same-sex practicing people is not only because human rights are irredeemably hegemonic or heteropatriarchal, but because they constitute a frontier where queers talk across borders, and where what is presumptively "queer" in queer theory is challenged and negotiated. As such, these projects constitute a space that queers cannot afford to simply critique, but must constructively engage.

This is not to say that LGBTI human rights projects reject this tension. They do not, and often adopt a fairly normative, state-centric view of who LGBTI people are and what they can demand from the state. But those tendencies should not be equated with any kind of bounded, impenetrable ideology. The human rights framework is an incredibly loose and flexible one, and this is certainly true of the sexual rights framework. A human rights project that would constitute a form of queer positivity would be precisely that project which puts the sexual mores and normativities of different times and places in conversation with each other, challenging what is "normal"

in one time and place and what is "queer" in another. The debate about whether human rights curtail or promote queerness presumes a stable queerness which does not exist, and misses the broader structural implications of a project that challenges multiple actors in the field - theorists, activists in the Global North and Global South, human rights professionals, and wider publics - to think critically about what sexual difference means in legal, political, social, and cultural terms.

Works Cited:

- ADEIM-Simbiosis, Artemisa, Cattrachas, Criola, IGLHRC, and Red Nosotras LBT. *"'Unnatural,' 'Unsuitable,' Unemployed!: Lesbians and Workplace Discrimination in Bolivia, Brazil, Colombia, Honduras, and Mexico.* New York: IGLHRC, 2005.
- African (Banjul) Charter on Human and People's Rights, *OAU Doc CAB/LEG/67/3 rev. 5, 21 I.L.M. 58,* 1981.
- Amnesty International et al., "Uganda: 'Anti-Homosexuality' Bill Threatens Liberties and Human Rights Defenders," 14 October 2009, available at http://www.amnesty.org/en/for-media/press-releases/ accessed 5 December 2010.
- Anti-Homosexuality Bill of 2009, Bill No. 18, 25 September 2009, available at http://www.boxturtlebulletin.com/btb/wp-content/uploads/2009/ accessed 3 December 2010.
- Beger, Nico J. *Tensions in the Struggle for Sexual Minority Rights in Europe: Que(e)rying Political Practices* . Manchester: Manchester University Press, 2004.
- Butler, Judith. *Frames of War: When Is Life Grievable?* London: Verso, 2009.
- Butler, Judith. *Gender Trouble* . New York: Routledge, 2007 [1990].
- Centre for the Development of People, http://www.cedepmalawi.org, accessed 9 April 2010.
- Comaroff, Jean and John L. Comaroff, eds. *Law and Disorder in the Postcolony* . Chicago: Unviersity of Chicago Press, 2006.
- Donnelly, Jack. *Universal Human Rights in Theory and Practice* . Second Edition. Ithaca, NY: Cornell University Press, 2003.
- Falk, Richard A. *Human Rights Horizons: The Pursuit of Justice in a Globalizing World* . New York, NY: Routledge, 2000.
- Geertz, Clifford. "Local Knowledge: Fact and Law in Comparative Perspective," in Geertz, C. (ed.) *Local Knowledge* . New York: Basic Books, 1983.
- Gettleman, Jeffrey, "Americans' Role Seen in Uganda Anti-Gay Push," *The New York Times,* 3 January 2010, at accessed 27 April 2010.
- Haritaworn, Jin, Tamsila Tauqir, and Esra Erdem. "Gay Imperialism: Gender and Sexuality Discourse in the 'War on

Terror,'" in *Out of Place: Interrogating Silences in Queerness/Raciality,* ed. Adi Kuntsman and E. Miyake. London: Raw Nerve Books, 2008. 71-95.
- Herdt, Gilbert. "Introduction." in *Third Sex, Third Gender: Beyond Sexual Dimorphism in Culture and History,* ed. Gilbert Herdt. New York: Zone Books, 1994.
- Hoad, Neville. "Between the White Man's Burden and the White Man's Disease: Tracking Lesbian and Gay Human Rights in Southern Africa." GLQ 5.4 (1999): 559-584.
- Hoad, Neville. *African Intimacies: Race, Homosexuality, and Globalization* . Minneapolis, University of Minnesota Press, 2007.
- International Covenant on Civil and Political Rights, UN Doc. A/6316,1966.
- International Gay and Lesbian Human Rights Commission, "In Letter to Malawi's President, IGLHRC Condemns Conviction and Ongoing Discrimination," *Global Monitor,* 18 May 2010,

accessed 20 June 2010.
- International Gay and Lesbian Human Rights Commission and Centre for the Development of People, "IGLHRC and CEDEP Commend Presidential Pardon in Malawi," 29 May 2010, available at
accessed 2 December 2010.
- International Gay and Lesbian Human Rights Commission and Sexual Minorities Uganda, "Uganda Action Alert: Dismiss the Anti-Homosexuality Bill," 16 October 2009, available at

accessed 3 December 2010.
- Kennedy, David. "The International Human Rights Movement: Part of the Problem?" *Harvard Human Rights Journal* 15 (2002): 101-125.
- Khanje, Thom. "Donors Speak on Gay Rights." *The Daily Times (Malawi),* 17 March 2010, http://www.bnltimes.com/index.php?option=com_content accessed March 2010.
- Khunga, Suzgo, "Bingu Stops Comments on Gays." *The Daily Times (Malawi),* 3 June 2010, http://www.bnltimes.com/index.php?option=com_content accessed 20 June 2010.
- Kulpa, Robert and Joanna Mizielinska, eds. *De-Centring Western Sexualities: Central and Eastern European Perspectives* . Surrey: Ashgate, 2011.
- Lewin, Ellen and William L. Leap. "Introduction," in *Out in Theory: the Emergence of Lesbian and Gay Anthropology,* ed. William L. Leap and Ellen Lewin. Chicago: University of Illinois Press, 2002. 1-15.
- Long, Scott. "Unbearable Witness: How Western Activists (Mis)recognize Sexuality in Iran." *Contemporary Politics* 15.1

(2009): 119-36.
- Malinowski, Bronislaw. *The Sexual Life of Savages in North Western Melanesia* . Whitefish, MT: Kessinger Publishing, LLC. 2005 [1929].
- Massad, Joseph A. "Re-Orienting Desire: The Gay International and the Arab World." *Public Culture* 14.2 (2002): 361-385.
- Massad, Joseph A. *Desiring Arabs* . Chicago, IL: University of Chicago Press, 2007.
- Mead, Margaret. *Coming of Age in Samoa* . New York: William Morrow and Company, 1928.
- Mizielinska, Joanna. "Travelling Ideas, Travelling Times: On the Temporalities of LGBTI and Queer Politics in Poland and the 'West,'" in *De-Centring Western Sexualities: Central and Eastern European Perspectives,* ed. Robert Kulpa and Joanna Mizielinska. Surrey: Ashgate, 2011. 85-105.
- Nussbaum, Martha. "The Professor of Parody." *The New Republic Online,* February 1999.
- Ottosson, Daniel. *State-Sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults* . Brussels: International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2010.
- Puar, Jasbir. *Terrorist Assemblages: Homonationalism in Queer Times* . Durham, NC, Duke University Press, 2007.
- Robertson, Jennifer. "Introduction: Sexualizing Anthropology's Fields," in *Same-Sex Cultures and Sexualities: An Anthropological Reader,* ed. J. Robertson. Oxford: Blackwell, 2005.
- Rorty, Richard. "Human Rights, Rationality, and Sentimentality." In *On Human Rights: Oxford Amnesty Lectures 1993,* Stephen Shute and Susan Hurley (eds.) New York: Basic Books, 1993.
- Rubin, Gayle. "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," in *Pleasure and Danger: Exploring Female Sexuality,* ed. C. Vance. London: Routledge & Kegan Paul, 1984.
- Sexual Minorities Uganda, "Official Statement from LGBTI Ugandans," 2009, at www.sexualminoritiesuganda.org, accessed 27 April 2010.
- Sheill, Kate. "UN Human Rights Council Passes 'Traditional Values' Resolution," *RH Reality Check,* 15 October 2009, available at http://www.rhrealitycheck.org/blog/2009/10/14/

accessed 3 December 2010.
- Stychin, Carl F. *A Nation By Rights: National Cultures, Sexual Identity Politics, and the Discourse of Rights* . Philadelphia, PA: Temple University Press, 1998.
- Thoreson, Ryan and Sam Cook, eds. *Nowhere to Turn: Blackmail and Extortion of LGBTI People in Sub-Saharan Africa* . New York, IGLHRC: 2011.
- Waites, Matthew. "Critique of 'Sexual Orientation' and 'Gender Identity' in Human Rights Discourse: Global Queer Politics Beyond

the Yogyakarta Principles." *Contemporary Politics* 15.1 (2009): 137-156.
- wa Mutua, Makau. "The Ideology of Human Rights." *Virginia Journal of International Law* 36 (1995-1996): 589-657.
- Young, R. M. and I. H. Meyer. "The Trouble With 'MSM' and 'WSW': Erasure of the Sexual-Minority Person in Public Health Discourse." *American Journal of Public Health* 95.7 (2005): 1144-1149.

[1] Few critics seem to appreciate the extent to which these concerns were also voiced by those who were ambivalent about the limitations of the human rights framework and skeptical of what it could deliver in any practical, enforceable way. During my research with the International Gay and Lesbian Human Rights Commission, activists there thought very critically about the politics of what they were doing, and their consciousness in particular about the need for caution and nuance in doing this work transnationally. The possibility that activists in the Global North might do more harm than good was a frequent concern among those doing this kind of work, as was the way that their work was interpreted and redefined by governments and the media.

[2] Of course, in identifying the limitations I find most relevant, I do not mean to imply that the list is exhaustive - there are many limitations to the human rights project, just as there are many possibilities. This list should be seen as a sampling to provoke and promote discussion around the possibilities of human rights as a form of queer positivity.

[3] Opponents of the Bill overwhelmingly focused on the clauses for serial offenders, those who are HIV+, and those whose partners are disabled. When pressed on the other provisions, they noted that these should be criminalized as forms of rape or sexual assault under the laws of Uganda and not used as a vehicle for a much broader regulation of sexual autonomy and expression.

Ryan Richard Thoreson